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the contrary, it has been expressly held that, if the defendant allows final judgment to be entered without withdrawing his set-off, he is estopped from bringing another action for the same. *Reynolds v. Reynolds*, 3 Ohio 268; *Janney v. Smith*, 2 Cranch C. C. 499; *Eastmure v. Laws*, 7 Smith 461; *Peack v. Mills*, 14 Vt. 371; *Wright v. Salisbury*, 46 Mo. 26; *Clement v. Field*, 147 U. S. 467. For, after judgment upon the merits, the parties may not "canvass the same question again in another action, although, perhaps, some objection or argument might have been urged upon the first trial which would have led to a different judgment." *Greathead v. Bromley*, 7 Term Rep. 456.

JUDGMENT—FOREIGN JUDGMENT—ENFORCEMENT.—Plaintiff brought action against the executors of S., deceased, upon the record of a judgment obtained against S. in the district court of M. county, territory of Arizona. The record of the case in the Arizona court shows that the defendant S. appeared and answered the complaint, that the case was tried and the cause submitted to the court, which took it under advisement, reserving decision till a future day. It further appeared that defendant S. died before any decision had been rendered or judgment entered, but that subsequently the court ordered that judgment be entered in favor of plaintiff and against defendant, and that "said judgment be entered nunc pro tunc as of the date of submission of said cause." It was objected that the death of S. before entry of judgment deprived the Arizona court of jurisdiction. *Held*, that where a judgment is entered by a court of record in another state after trial before the court in which decision was reserved, and the judgment subsequently entered as of the date of the trial, it may be enforced against the estate of defendant in Pennsylvania, though he dies after the trial and before actual entry of judgment. *Stilwell v. Smith et al.* (1907), — Pa. —, 67 Atl. Rep. 910.

The power of the courts, whether of law or equity, to make entries of judgments nunc pro tunc in proper cases is one which has long been exercised as a part of their common law jurisdiction. *BLACK, JUDG.*, § 126; *Lord Mohun's Case*, 6 Mod. 59; *Reid v. Morton*, 119 Ill. 118, 6 N. E. 414. This power, therefore, does not depend on statute; it is inherent. *Chissom v. Barbour*, 100 Ind. 1. The circumstances which justify the exercise of this power have been well summarized by Justice HARLAN: "Where the delay in rendering judgment or decree arises from the act of the court, that is, where the delay has been for its convenience * * * or for any other cause not attributable to the laches of the parties, but within the control of the court, the judgment or decree may be entered retrospectively, as of a time when it should or might have been entered up. In such cases, upon the maxim, 'actus curiae neminem gravabit,' * * * it is the duty of the court to see that the parties do not suffer by the delay." *Mitchell v. Overman*, 103 U. S. 62, 26 L. Ed. 369. Thus where one of the parties dies, after the submission of the case, but before judgment is rendered, if the successful party be guilty of no laches, the court will not allow the action to abate, but instead will enter judgment nunc pro tunc as of the time of submission. *Green v. Cobden*, 4 Scott's Cas. 486; *Tapley v. Goodsell*, 122 Mass. 176; *Long v. Stafford*, 103 N. Y. 275, 8 N. E. 522; *Estate of Page*, 50 Cal. 40.